

ASSEMBLY BILL

No. 1686

Introduced by Assembly Member Medina

February 13, 2014

An act to amend Section 602 of the Penal Code, relating to trespass.

LEGISLATIVE COUNSEL'S DIGEST

AB 1686, as introduced, Medina. Trespass.

Existing law provides that a person commits a trespass, which is punishable as a misdemeanor, when he or she willfully refuses or fails to leave land, real property, or structures belonging to, or lawfully occupied by, another person and not open to the general public, after being requested to leave by a peace officer acting at the request of the owner, the owner's agent, or the person in lawful possession, and after being informed by the peace officer that he or she was so acting, or after being requested to leave by the owner, the owner's agent, or the person in lawful possession. Existing law permits, for the purposes of this provision, a single request to be made for a peace officer's assistance for a period of 6 months or less when the premises or property is closed to the public and posted as being closed.

This bill would instead permit that single request to be made for a period not to exceed 12 months.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 602 of the Penal Code is amended to
2 read:

602. Except as provided in subdivision (u), subdivision (v), subdivision (x), and Section 602.8, every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard, or notice is intended to indicate or designate a road or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention to it.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any of those lands, whether covered by water or not, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

(h) (1) Entering upon lands or buildings owned by any other person without the license of the owner or legal occupant, where signs forbidding trespass are displayed, and whereon cattle, goats, pigs, sheep, fowl, or any other animal is being raised, bred, fed, or held for the purpose of food for human consumption; or injuring, gathering, or carrying away any animal being housed on any of those lands, without the license of the owner or legal occupant; or damaging, destroying, or removing, or causing to be removed, damaged, or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any of those lands.

(2) In order for there to be a violation of this subdivision, the trespass signs under paragraph (1) ~~must~~ *shall* be displayed at intervals not less than three per mile along all exterior boundaries and at all roads and trails entering the land.

(3) This subdivision shall not be construed to preclude prosecution or punishment under any other provision of law, including, but not limited to, grand theft or any provision that provides for a greater penalty or longer term of imprisonment.

(i) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(j) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.

(k) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent, or by the person in lawful possession.

(l) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands without

1 the written permission of the owner of the land, *or* the owner's
2 agent, or of the person in lawful possession, and *any of the*
3 *following*:

4 (1) Refusing or failing to leave the lands immediately upon
5 being requested by the owner of the land, the owner's agent or by
6 the person in lawful possession to leave the ~~lands, or~~ lands.

7 (2) Tearing down, mutilating, or destroying any sign, signboard,
8 or notice forbidding trespass or hunting on the ~~lands, or~~ lands.

9 (3) Removing, injuring, unlocking, or tampering with any lock
10 on any gate on or leading into the ~~lands, or~~ lands.

11 (4) Discharging any firearm.

12 (m) Entering and occupying real property or structures of any
13 kind without the consent of the owner, the owner's agent, or the
14 person in lawful possession.

15 (n) Driving any vehicle, as defined in Section 670 of the Vehicle
16 Code, upon real property belonging to, or lawfully occupied by,
17 another and known not to be open to the general public, without
18 the consent of the owner, the owner's agent, or the person in lawful
19 possession. This subdivision shall not apply to any person described
20 in Section 22350 of the Business and Professions Code who is
21 making a lawful service of process, provided that upon exiting the
22 vehicle, the person proceeds immediately to attempt the service
23 of process, and leaves immediately upon completing the service
24 of process or upon the request of the owner, the owner's agent, or
25 the person in lawful possession.

26 (o) Refusing or failing to leave land, real property, or structures
27 belonging to or lawfully occupied by another and not open to the
28 general public, upon being requested to leave by (1) a peace officer
29 at the request of the owner, the owner's agent, or the person in
30 lawful possession, and upon being informed by the peace officer
31 that he or she is acting at the request of the owner, the owner's
32 agent, or the person in lawful possession, or (2) the owner, the
33 owner's agent, or the person in lawful possession. The owner, the
34 owner's agent, or the person in lawful possession shall make a
35 separate request to the peace officer on each occasion when the
36 peace officer's assistance in dealing with a trespass is requested.
37 However, a single request for a peace officer's assistance may be
38 made to cover a limited period of time not to exceed 30 days and
39 identified by specific dates, during which there is a fire hazard or
40 the owner, owner's agent, or person in lawful possession is absent

from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed ~~six~~ 12 months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code) or by the *federal* National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the California or United States Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

(p) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(q) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchperson, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.

(r) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(s) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, occupancy at a hotel or motel for a continuous period of 30 days or less shall, in the absence of a

1 written agreement to the contrary, or other written evidence of a
2 periodic tenancy of indefinite duration, be exempt from Chapter
3 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
4 3 of the Civil Code.

5 (t) (1) Entering upon private property, including contiguous
6 land, real property, or structures thereon belonging to the same
7 owner, whether or not generally open to the public, after having
8 been informed by a peace officer at the request of the owner, the
9 owner's agent, or the person in lawful possession, and upon being
10 informed by the peace officer that he or she is acting at the request
11 of the owner, the owner's agent, or the person in lawful possession,
12 that the property is not open to the particular person; or refusing
13 or failing to leave the property upon being asked to leave the
14 property in the manner provided in this subdivision.

15 (2) This subdivision shall apply only to a person who has been
16 convicted of a crime committed upon the particular private
17 property.

18 (3) A single notification or request to the person as set forth
19 above shall be valid and enforceable under this subdivision unless
20 and until rescinded by the owner, the owner's agent, or the person
21 in lawful possession of the property.

22 (4) Where the person has been convicted of a violent felony, as
23 described in subdivision (c) of Section 667.5, this subdivision shall
24 apply without time limitation. Where the person has been convicted
25 of any other felony, this subdivision shall apply for no more than
26 five years from the date of conviction. Where the person has been
27 convicted of a misdemeanor, this subdivision shall apply for no
28 more than two years from the date of conviction. Where the person
29 was convicted for an infraction pursuant to Section 490.1, this
30 subdivision shall apply for no more than one year from the date
31 of conviction. This subdivision shall not apply to convictions for
32 any other infraction.

33 (u) (1) Knowingly entering, by an unauthorized person, upon
34 any airport operations area, passenger vessel terminal, or public
35 transit facility if the area has been posted with notices restricting
36 access to authorized personnel only and the postings occur not
37 greater than every 150 feet along the exterior boundary, to the
38 extent, in the case of a passenger vessel terminal, as defined in
39 subparagraph (B) of paragraph (3), that the exterior boundary
40 extends shoreside. To the extent that the exterior boundary of a

1 passenger vessel terminal operations area extends waterside, this
2 prohibition shall apply if notices have been posted in a manner
3 consistent with the requirements for the shoreside exterior
4 boundary, or in any other manner approved by the captain of the
5 port.

6 (2) Any person convicted of a violation of paragraph (1) shall
7 be punished as follows:

8 (A) By a fine not exceeding one hundred dollars (\$100).

9 (B) By imprisonment in a county jail not exceeding six months,
10 or by a fine not exceeding one thousand dollars (\$1,000), or by
11 both that fine and imprisonment, if the person refuses to leave the
12 airport or passenger vessel terminal after being requested to leave
13 by a peace officer or authorized personnel.

14 (C) By imprisonment in a county jail not exceeding six months,
15 or by a fine not exceeding one thousand dollars (\$1,000), or by
16 both that fine and imprisonment, for a second or subsequent
17 offense.

18 (3) As used in this subdivision, the following definitions shall
19 control:

20 (A) "Airport operations area" means that part of the airport used
21 by aircraft for landing, taking off, surface maneuvering, loading
22 and unloading, refueling, parking, or maintenance, where aircraft
23 support vehicles and facilities exist, and which is not for public
24 use or public vehicular traffic.

25 (B) "Passenger vessel terminal" means only that portion of a
26 harbor or port facility, as described in Section 105.105(a)(2) of
27 Title 33 of the Code of Federal Regulations, with a secured area
28 that regularly serves scheduled commuter or passenger operations.
29 For the purposes of this section, "passenger vessel terminal" does
30 not include any area designated a public access area pursuant to
31 Section 105.106 of Title 33 of the Code of Federal Regulations.

32 (C) "Public transit facility" has the same meaning as specified
33 in Section 171.7.

34 (D) "Authorized personnel" means any person who has a valid
35 airport identification card issued by the airport operator or has a
36 valid airline identification card recognized by the airport operator,
37 or any person not in possession of an airport or airline identification
38 card who is being escorted for legitimate purposes by a person
39 with an airport or airline identification card. "Authorized
40 personnel" also means any person who has a valid port

1 identification card issued by the harbor operator, or who has a
2 valid company identification card issued by a commercial maritime
3 enterprise recognized by the harbor operator, or any other person
4 who is being escorted for legitimate purposes by a person with a
5 valid port or qualifying company identification card. “Authorized
6 personnel” also means any person who has a valid public transit
7 employee identification.

8 (E) “Airport” means any facility whose function is to support
9 commercial aviation.

10 (v) (1) Except as permitted by federal law, intentionally
11 avoiding submission to the screening and inspection of one’s
12 person and accessible property in accordance with the procedures
13 being applied to control access when entering or reentering a sterile
14 area of an airport, passenger vessel terminal, as defined in ~~Section~~
15 ~~171.5; subdivision (u)~~, or public transit facility, as defined in
16 ~~subdivision (u)~~, *Section 171.5*, if the sterile area is posted with a
17 statement providing reasonable notice that prosecution may result
18 from a trespass described in this subdivision, is a violation of this
19 subdivision, punishable by a fine of not more than five hundred
20 dollars (\$500) for the first offense. A second and subsequent
21 violation is a misdemeanor, punishable by imprisonment in a
22 county jail for a period of not more than one year, or by a fine not
23 to exceed one thousand dollars (\$1,000), or by both that fine and
24 imprisonment.

25 (2) Notwithstanding paragraph (1), if a first violation of this
26 subdivision is responsible for the evacuation of an airport terminal,
27 passenger vessel terminal, or public transit facility and is
28 responsible in any part for delays or cancellations of scheduled
29 flights or departures, it is punishable by imprisonment of not more
30 than one year in a county jail.

31 (w) Refusing or failing to leave a battered women’s shelter at
32 any time after being requested to leave by a managing authority
33 of the shelter.

34 (1) A person who is convicted of violating this subdivision shall
35 be punished by imprisonment in a county jail for not more than
36 one year.

37 (2) The court may order a defendant who is convicted of
38 violating this subdivision to make restitution to a battered woman
39 in an amount equal to the relocation expenses of the battered

1 woman and her children if those expenses are incurred as a result
2 of trespass by the defendant at a battered women's shelter.

3 (x) (1) Knowingly entering or remaining in a neonatal unit,
4 maternity ward, or birthing center located in a hospital or clinic
5 without lawful business to pursue therein, if the area has been
6 posted so as to give reasonable notice restricting access to those
7 with lawful business to pursue therein and the surrounding
8 circumstances would indicate to a reasonable person that he or she
9 has no lawful business to pursue therein. Reasonable notice is that
10 which would give actual notice to a reasonable person, and is
11 posted, at a minimum, at each entrance into the area.

12 (2) Any person convicted of a violation of paragraph (1) shall
13 be punished as follows:

14 (A) As an infraction, by a fine not exceeding one hundred dollars
15 (\$100).

16 (B) By imprisonment in a county jail not exceeding one year,
17 or by a fine not exceeding one thousand dollars (\$1,000), or by
18 both that fine and imprisonment, if the person refuses to leave the
19 posted area after being requested to leave by a peace officer or
20 other authorized person.

21 (C) By imprisonment in a county jail not exceeding one year,
22 or by a fine not exceeding two thousand dollars (\$2,000), or by
23 both that fine and imprisonment, for a second or subsequent
24 offense.

25 (D) If probation is granted or the execution or imposition of
26 sentencing is suspended for any person convicted under this
27 subdivision, it shall be a condition of probation that the person
28 participate in counseling, as designated by the court, unless the
29 court finds good cause not to impose this requirement. The court
30 shall require the person to pay for this counseling, if ordered, unless
31 good cause not to pay is shown.

32 (y) Except as permitted by federal law, intentionally avoiding
33 submission to the screening and inspection of one's person and
34 accessible property in accordance with the procedures being applied
35 to control access when entering or reentering a courthouse or a
36 city, county, city and county, or state building if entrances to the
37 courthouse or the city, county, city and county, or state building
38 have been posted with a statement providing reasonable notice

- 1 that prosecution may result from a trespass described in this
- 2 subdivision.

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